

Memorandum

TO: TRANSPORTATION &
ENVIRONMENT COMMITTEE

FROM: Christopher M. Moore
Chief of Police

SUBJECT: TOW CONTRACTS

DATE: 10-26-11

Approved



Date

10/27/11

RECOMMENDATION

Accept staff report on City tow contracts, including impact of the new policy implementation on towing activity.

BACKGROUND

In January 2011, the Police Department issued an Information Memorandum related to a Tow Policy update <https://www.piersystem.com/external/content/document/1914/988159/1/01-13-11%20Police.PDF>. The memo affirmed that the department's tow policy is consistent with the California Vehicle Code (CVC), which allows for the towing and subsequent 30-day impounding of vehicles of persons cited or arrested for driving without a valid license, and informed Council of amendments to towing protocols. The revised procedures would ensure that 30-day impounds would continue for the vehicles of the most serious offenders, while reducing the number of tows and impounds for persons whose violations are not related to serious driving offenses. These policy changes were made in response to strong community advocacy and were intended to minimize the number of impounds that occur for non-serious driving offenses. An inadvertent impact of this reduction in the number of impounds was a possible decrease in revenue for towing operators.

In June 2011, the Rules and Open Government Committee, based on a memo by Councilmember Rocha, directed that a discussion on the tow contracts held by the City and the new policy implementation on towing procedures as modified by the Chief of Police under the California Vehicle Code, be added to the Transportation and Environment Committee's Fall workplan. http://www.sanjoseca.gov/clerk/CommitteeAgenda/Rules/20110622/rules20110622_i3att.pdf

Tow Contracts Program Overview

The City has had agreements for City-Generated Zone Towing ("Tow Zone") since 1996 with six (6) contractors, one for each of the six (6) zones (see Attachment A). Each Tow Zone serves a separate portion of the City and provides the contractor the exclusive right to provide services

for City generated tows. This includes towing services for the Police Department (PD) for accident and vehicle violations; the Department of Transportation (DOT) for abandoned, inoperable and illegally stored vehicles on the public right of way and the Planning, Building and Code Enforcement ("PBCE") Department's Code Enforcement Division for the Neighborhood Clean-up Program. Towing of City fleet vehicles is not included in these agreements. The Code Enforcement Division of the PBCE Department provides contract administration.

Tow Contractors were selected through a competitive Request for Proposal ("RFP") process and must have their storage yard and business within San José as well as comply with a number of contract requirements to ensure quality customer service, site security, environmental standards and contractor responsiveness. Council approved the current contracts on March 24, 2009 for an initial term of April 1, 2009 through March 31, 2014 with two optional one-year options to extend through March 31, 2016.

The contract compensation is established pursuant to Council Policy 9-8. This Policy ensures that the maximum tow rates allowed are reviewed annually and may not exceed those as allowed by the State of California Highway Patrol Services Agreement for the Golden Gate Region - San José Office. The Policy further ensures that any rate increase includes a review of and recommendation for changes to contractual compensation payments as required under the City of San José's adopted Tow Services Agreement.

The current tow rate (basic tow) is \$175 per vehicle. The City, in consideration of the exclusive tow zones receives the following revenues: \$75.25 for every vehicle towed and \$7.00 for each tow dispatch requested. In FY 2010-2011, the total general fund contract revenue received by the City was \$ 1,017,941 (\$ 929,864 for City generated tows and \$ 88,077 for dispatch fees).

ANALYSIS

This report provides information on the overall changes in tow activity and possible reasons for the decrease in the number of tows. Overall towing activity in the last three fiscal years has decreased significantly, from 17,692 tows in FY 08-09 to 12,357 tows in FY 10-11, with total towing fees remitted to the City decreasing from \$1,061,20 in FY 08-09 to \$929,864 in FY 10-11. This decrease is primarily in the areas of SJPd and DOT tow activities, further detail on which is provided below.

SJPd Tow Activity

Since the implementation of the new towing protocols, staff has been tracking various data points to evaluate the impact, if any, of the new protocols. As shown in the table below, although the number of total tows have decreased since 2008, the amount of impound fees received by the City is remaining fairly constant.

Table A – Number of Tows by PD

Calendar Year	Total No. of Tows	Impound Fees Received by City
2008	14,512	\$827,720
2009	11,154	\$836,009
2010	9,905	\$913,092
2011 (First half only)	3,372	\$413,530

The reason the impound fees have stayed fairly constant is based on the cost for the Registered Owner ("R/O") whose vehicle has been impounded. Prior to the policy change at PD in January 2011, the unlicensed or suspended driver who would have his or her vehicle impounded for 30 days, had to pay a minimum of \$2,023. The R/O was first required to come to the PD to pay a vehicle release fee in the amount of \$198 and to obtain a vehicle release form. He/she would then take the vehicle release form to the tow yard and pay the impound fee of \$175 plus an additional \$55 per night the vehicle was stored at the tow yard, for a total of \$1,825. Many of these R/O's would not pay \$2,023 (including vehicle release fee) to recover a car valued at less than the impound fees owed. They would instead purchase another low-price vehicle and never recover their impounded vehicle from the tow company.

However, after implementation of the new Tow Policy, most drivers whose vehicles are actually impounded only have to wait one night to get their vehicle back. They still have to pay the PD the vehicle release fee in the amount of \$198; however, the cost of the impound and one night storage drops to \$198 (down from \$2,023 previously). This provides an incentive for the driver to pay the release fee, the tow and storage fee and pick up the vehicle. Although the number of actual impounds has declined considerably, the revenue to the City remains fairly constant since the percentage of vehicle recovery by R/O's is higher than it was prior to the policy change. These same changes in the vehicle recovery patterns by R/O's could be affecting the tow companies' revenues due to a lower amount of storage fees collected and fewer vehicle auctions, however, at this time staff does not have any specific data to support this.

Table B – Total Collisions in San Jose

Fiscal Year	Number	Percentage Change
2008-2009	11,462	
2009-2010	10,041	-13%
2010-2011	9,390	-7%
2011-2012 (Q1 only)	2,211	-25% from Q4 2010-2011

In addition to the number of tows and impound revenue, staff has also been tracking the number of collisions. As shown in the table above, these have continued to decrease, consistent with the trend over the last three years, even with the changes in the towing protocols. Thus, at this time, staff is not recommending any further changes to the towing protocols.

DOT Tow Activity

A decrease in tow activity in DOT has also been observed over the last 3 years, with tow activity conducted by DOT staff representing about 15% of the overall tow activity. The majority of DOT tow activity is in response to vehicle abatement complaints and requests for service such as temporary signage and enforcement for special events or complaints about blocked driveways. A complaint, however, usually does not result in a vehicle being towed due to voluntary compliance by the owner. In addition to a decrease in towing activity due to changes in towing protocols, the DOT tow activity has also consistently declined since FY 2006-2007, with the most notable decrease occurring between FY 2008-2009 and FY 2010-2011. Specifically, there were about 1,500 fewer tows related to vehicle abatement cases in FY 2010-2011 than in FY 2008-2009.

Reduced DOT tow activity is primarily due to a combination of the following:

- Fewer vehicle abatement complaints received (*16,419 in FY 10-11 vs. 23,337 in FY 08-09*);
- Increase in the compliance rate (*92% in FY 10-11 vs. 88% in FY 08-09, 250 inoperable vehicles observed in FY 10-11 vs. 900 in FY 08-09*); and
- Fewer complaints resulting in a valid and workable abatement (*40% of cases in FY 10-11 closed out in first visit since vehicle in question had been moved, or the vehicle could not be located as described*).

EVALUATION AND FOLLOW-UP

Further evaluation and follow up will be based on Committee input and direction.

COORDINATION

This report has been coordinated with the City Manager's Office and the Departments of Finance, Transportation, and Planning, Building and Code Enforcement

/s/

CHRISTOPHER M. MOORE
Chief of Police

For questions please contact Assistant Chief of Police Rikki Goede at 408-277-4212

Attachment A

2002 City of San Jose

Tow Zone Boundaries

